THE U.S.-VIETNAM BILATERAL TRADE AGREEMENT

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Chairman Bereuter, Chairwoman Ros-Lehtinen, Congressmen Lantos and Menendez, Members of the Subcommittees, thank you very much for inviting me to testify on the conclusion of our Bilateral Commercial Agreement with Vietnam, and our support for extension of Normal Trade Relations.

This July, after nearly four years of negotiation, we signed a Bilateral Trade Agreement with Vietnam. Under the Jackson-Vanik Amendment, such an agreement is necessary, together with certification of freedom of emigration, for the United States to maintain conditional Normal Trade Relations with non-market economies. This is the most comprehensive such agreement ever negotiated, covering all the major trade issues on our agenda and, when approved by Congress through extension of annually renewable Normal Trade Relations, bringing about over time significant reforms in Vietnam's trade and economic policies. As it does so, the agreement will fully normalize our trade relationship with Vietnam, contributing to a broader process of normalization with both great symbolic and strategic importance for the United States.

U..S.-VIETNAM TRADE AGREEMENT AND U.S. REGIONAL POLICY GOALS

Let me begin my testimony by placing the agreement in the context of our broader relationship with and policy toward Vietnam and its neighbors.

Our first priority, like that of previous Administrations, has been a full accounting for American service personnel listed as Missing in Action in the aftermath of the Vietnam War. As Ambassador Peterson noted in testimony before the Ways and Means Committee earlier this year, this work is proceeding with full cooperation from Vietnam, through joint field activities and review of material evidence.

With this continuing, we believe normalized ties between the United States and Vietnam, Cambodia and Laos, together with their full engagement in ASEAN and the broader Pacific economy, serves American goals in several ways.

– First, integrating these countries into U.S.-Pacific trade contributes to American strategic goals in Asia. A stable and cohesive Southeast Asia is a major contribution to peace and security in the broader Asia-Pacific region. The entry of Vietnam, Laos and Cambodia into ASEAN has already made a major contribution to this goal. A growing trade and investment relationship with the United States, together with greater economic integration within Southeast Asia as the Indochinese nations participate in the ASEAN Free Trade Area, will continue and strengthen this trend.

– Second, we can help create substantial new trade opportunities for American businesses, farmers and working people in a region of 100 million people. Vietnam in particular, as ASEAN's second-largest country and the fourth-largest nation in Asia, has the potential to develop into a rapidly growing economy with significant demand for our products.

– Finally, our trade agreements make a contribution to economic reform and the rule of law in commercial areas in these countries. In doing so, they tend over time to reduce arbitrary state power, offer individuals greater economic opportunities and more freedom to determine their own future, complementing (although in no way substituting for) our human rights initiatives.

REGIONAL TRADE POLICY

Thus, since the mid-1990s and beginning with the lifting of post-Vietnam War trade embargoes, we have been working toward full normalization of our trade relationships with each country. Though the three economies are quite different -- Vietnam being a larger and relatively more industrialized country – each presented some similar issues:

– All had non-market economies and highly closed trade regimes;

– In the aftermath of the Cold War, all were interested in moving toward varying degrees of domestic economic reform and opening economic relations with the United States; and

-- All three, as non-market economies, were ineligible for Normal Trade Relations without negotiation of a Bilateral Commercial Agreement (BCA).

Our goal, therefore, was to negotiate agreements with each country that would lead to significantly more open markets, contribute to domestic reform and liberalization, and (assuming success in freedom of emigration in the Vietnamese case) allow us to endorse Normal Trade Relations. As with other transitional economies in Europe and Asia, we will not move on to requests for permanent NTR until Vietnam joins the WTO, a number of years from now.

CAMBODIA AND LAOS

With respect to the two smaller countries, we were able to move relatively quickly. We succeeded first with Cambodia, with a Bilateral Commercial Agreement that entered into force on the Congressional grant of NTR in 1996. As this agreement was negotiated before completion of the Uruguay Round, it is less comprehensive than the Laos and Vietnam agreements. However, it does contain comprehensive intellectual property commitments and ensures national treatment for imports.

With respect to Laos, we completed a Bilateral Commercial Agreement in 1997. This agreement, using the completion of the Uruguay Round as a foundation, is more comprehensive, covering market access for goods and services, and intellectual property rights. It has not yet come into force, however, as Laos has not yet been granted NTR by Congress. The Administration will continue to work with Members to find an appropriate vehicle and time for its implementation.

CONTEMPORARY U.S. TRADE RELATIONSHIP WITH VIETNAM

Vietnam, with nearly 80 million of the region's approximately 100 million people, is by far the largest of the three countries. Our work here has proceeded step-by-step, beginning with President Clinton's decision to authorize resumed international lending and allow US firms to join in development projects in 1993, and continuing through the lifting the economic embargo in 1994, and the opening of normal diplomatic relations in 1995. These in turn build upon earlier decisions in 1991 and 1992 to open organized travel, allow commercial sales to Vietnam for basic human needs and open telecommunications links.

These steps have enabled us to begin the development of a trade and investment relationship with Vietnam. Vietnam has become our sixth largest trading partner in Southeast Asia -- in 1999, we exported approximately $300 million worth of goods to Vietnam, with the major U.S. exports being industrial machinery, fertilizers and semiconductors; and our imports from Vietnam totalled approximately $600 million, most of this in crude oil, footwear, shrimp and coffee. A number of American firms have invested in Vietnam as well, with approximately $183 million worth of investment at the end of 1998.

Two factors have severely limited the growth of this relationship, however. First, Vietnam remains one of the very few countries which do not enjoy Normal Trade Relations Status. (These are Vietnam, Laos, Cuba, North Korea, Afghanistan and Serbia.) As a result, imports from Vietnam face Smoot-Hawley tariff levels averaging 40% – more than ten times our current applied tariff levels for countries with NTR.

Second, economic reform within Vietnam has progressed slowly, weakening the economy's overall potential and creating obstacles for American exporters. Vietnam had made a degree of progress on reform in the early 1990s. However, this has been slowed by the effects of the Asian financial crisis, as Vietnam's exports to and investment from East Asia have both dropped. Vietnam's rates of economic growth, high in the early 1990s, have slowed to 4.0 - 4.5% per year since the financial crisis.

As this occurred, the momentum of domestic reform slowed as well. This has left Vietnam with a series of policy challenges: state enterprises make up approximately 30% of GDP and are in many cases in a financially weak position, highly protectionist policies in many sectors, and non-transparent administration.

THE U.S.-VIETNAM BILATERAL TRADE AGREEMENT

Our Bilateral Commercial Agreement addresses many of these issues as it also takes up the major trade issues and sectors of concern to Americans. It thus it marks a major shift of economic policy direction for Vietnam, setting a course for greater openness to the outside world; promoting economic reform and market principles, transparency in law and regulatory policy, and helping Vietnam to both integrate itself into the Pacific regional economy and build a foundation for future entry into the World Trade Organization.

The agreement is divided into six chapters: (1) market access for industrial goods and farm products; (2) intellectual property; (3) trade in services; (4) investment; (5)business facilitation; and (6) transparency. In each case, it sets clear and specific commitments and timetables, which will go into effect after the agreement is implemented through a Congressional decision to extend Normal Trade Relations to Vietnam.

The details of the agreement are as follows.

Chapter 1. Market Access for Goods

In goods, Vietnam has committed to general trade principles consistent with WTO practices, including reducing tariffs and abolishing non-tariff restrictions such as quotas, ensuring trading rights for foreign and Vietnamese businesses, and others. Some of the major commitments include:

> Trading Rights: Vietnam will grant, for the first time, rights for both Vietnamese and foreign businesses to import and export, generally phased in over 3-6 years.
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> National Treatment – Vietnam will apply national treatment for imports in areas including standards, taxes and commercial dispute settlement.
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> Tariffs -- Vietnam will guarantee MFN-level tariffs for U.S. goods, and cut tariffs on a wide range of agricultural and manufactured goods of interest to American exporters from most cases by a third to a half, from current levels averaging approximately 20%.
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> Non-tariff Measures: Vietnam has agreed to eliminate all quantitative restrictions on a range of industrial and agricultural products (e.g., auto parts, citrus, beef), over a period of 3-7 years, depending on the product.

Import Licensing: Vietnam will eliminate all discretionary import licensing, in accordance with the WTO agreement.

Customs Valuation and Customs Fees. Vietnam will comply with WTO rules – using transactions value for customs valuation, and limiting customs fees to cost of services rendered – in 2 years.

Technical Standards and Sanitary and Phytosanitary Measures: In accordance with WTO standards, technical regulations and sanitary and phytosanitary measures will be applied on a national treatment basis, to the extent necessary to fulfill legitimate objectives (e.g., to protect human, animal or plant life or health).

State Trading: State trading will be carried out in accordance with WTO rules (e.g., state trading enterprises make any sales and purchases only in accordance with commercial considerations).

Chapter 2. Intellectual Property Rights

Vietnam will implement WTO-level patent and trademark protection within one year, and copyright and trade secret protection within 18 months. It will also take further measures to strengthen intellectual property protection in other areas, for example protection of encrypted satellite signals.

Chapter 3. Trade in Services

Vietnam will accept the rules of the WTO's General Agreement on Trade in Services, guarantees protection for the existing rights of all foreign service providers in Vietnam, and making specific commitments in a range of sectors. Some of the major areas include:

Telecommunications – Vietnam will accept the principles of the WTO's Basic Telecommunications Reference Paper, requiring a pro-competitive regulatory regime and cost-based interconnection fees. It will also make commitments to liberalize the basic and value-added telecommunications markets, as follows:

Basic Telecom (including mobile cellular and satellite) – Vietnam will allow U.S. firms to form joint ventures four years after implementation of the agreement, with a 49% US equity limit.

Value-added Telecom – U.S. firms will be allowed to form joint ventures two years after implementation of the agreement (3 years for Internet services), with a 50% limit on US equity.

Voice Telephone services – U.S. firms will be allowed to form joint ventures after six years, with a 49% equity limit.

In all these fields, Vietnam and the U.S. will discuss a potential increase in the level of U.S. equity participation when the agreement is reviewed in three years.

Financial Services – Vietnam agreed to the General Agreement on Trade in Services financial annex, and made the following specific commitments:

Insurance: In life and other "non-mandatory" sectors, U.S. firms will be able to form joint ventures with a 50% equity limit after three years, and to hold 100% equity after five years. In "mandatory" sectors such as motor vehicle and construction insurance, U.S. firms will be able to hold 100% equity after six years.

Banking and related financial services – Vietnam has also agreed to:

Non-bank and leasing company providers: Joint ventures will be allowed on implementation of the agreement; after three years, Vietnam will permit 100% US equity shares.

Banks – US banks will be allowed to open branches in Vietnam. U.S. banks will be able to form joint ventures with equity between 30% and 49%; after 9 years, 100% US subsidiary banks will be allowed. Vietnam will also allow U.S. banks to hold equity shares in privatized Vietnamese banks at the same level as allowed Vietnamese investors. Over time, Vietnam will also allow U.S. banks to offer such services as deposits in local currency, credit cards, ATM machines and others.

Securities-related services – U.S. securities firms will be allowed to open representative offices in Vietnam.

Professional: Vietnam has made specific commitments across the range of professional services industries. These include:

Legal – Vietnam will allow 100% US equity in legal firms, including branches. Law firms opening branches in Vietnam will receive 5-year, renewable licenses, and may consult on Vietnamese laws.

Accounting – U.S. accounting firms will be able to hold 100% equity. Vietnam will grant licenses to U.S. accounting firms on a case-by-case basis for three years, with no limits afterwards. U.S. firms will be able to provide services to foreign invested firms for the first two years, and to Vietnamese firms afterwards.

Architectural – U.S. architectural firms will be able to hold 100% equity. U.S. firms will be able to provide services to foreign invested firms for the first two years, and to Vietnamese firms afterwards.

Engineering – U.S. engineering firms will be able to hold 100% equity. U.S. firms will be able to provide services to foreign invested firms for the first two years, and to Vietnamese firms afterwards.

Audio Visual – U.S. firms will be able to form joint ventures with 49% equity on implementation of the agreement; the equity limit will rise to 51% after five years. Services opened under this commitment include film production and distribution, and motion picture projection services.

Distribution – For wholesale distribution, U.S. firms will be able to form joint ventures after three years with a 49% equity limit; this equity limit will be eliminated after six years. All U.S. retailers wishing to participate in the Vietnam market will be allowed to open one outlet, with further approvals on a case-by-case basis.

Other – Vietnam has also made specific commitments in a wide range of other services fields, including computer services, advertising, market research, management consulting, construction, distribution, private education, health services such as hospital and clinics, and the travel and tourism sector.

Chapter 4. Investment

Vietnam will make a series of commitments that will ease investment, reduce paperwork and in almost all cases ensure national treatment for foreign investors. These include protection against expropriation of U.S. investments in Vietnam, and rights to repatriate profits and conduct other financial transfers on a national treatment basis; phasing out such measures as local content requirements and export performance requirements within 5 years; ending almost all investment screening and discriminatory pricing; and reducing government controls and screening requirements for joint ventures.

Chapter 5: Business Facilitation

Vietnam will guarantee the right for U.S. persons to conduct routine business practices, such as setting up offices, advertise, and conduct market studies.

Chapter 6: Transparency and Right to Appeal

This chapter of the agreement is as significant as any in the agreement. Under its provisions, Vietnam will make an extensive set of commitments to transparency. In sharp contrast to past practices and a major reform of administrative policies, Vietnam will now provide advance notice of all laws, regulations and other administrative procedures relating to any matter covered in the agreement; publish all laws and regulations; and inform the public of effective dates and government contact points. Specific commitments include:

– All laws governing issues covered in the agreement must be made public and readily available.

– Vietnam will designate an official journal in which all such measures will be published.

– Vietnam will commit to uniform, impartial and reasonable application of all laws, regulations and administrative procedures.

– Vietnam will form administrative or judicial tribunals for review and correction (at the request of an affected person) of all matters covered in the agreement, and afford the right to appeal the relevant decision. Notice of decisions upon appeal and reasons for decisions appealed will be provided in writing.

CONCLUSION

Taken as a whole, this agreement is an historic step forward in our economic relationship with Vietnam – bringing U.S.-Vietnam trade onto the same terms we afford nearly every other country in the world, and marking an important turning point in Vietnam's domestic economic policies. Over time, it will help speed Vietnam's integration into the world and Pacific economies, and move it toward ultimate membership in the World Trade Organization.

As it promotes this transformation of our economic relationship, the U.S.-Vietnam Trade Agreement thus serves each of our major goals in Southeast Asia. Completion of this agreement, and approval of annual NTR for Vietnam, will open significant new opportunities for Americans. More important still, it will contribute to aspirations for economic liberalization and the rule of law in these countries; complement the work we are pursuing in human rights; and advance our long-term vision of a peaceful, stable Asia.

Finally, of course, this agreement marks a decisive moment in our normalization with Vietnam and its neighbors. This process, over the past decade, has contributed to the end of the Cambodian conflict; an accounting for Americans missing in action during the Indochina wars; and the reopening of hope for millions of the region's people; and Congressional approval will mark the final step in this process. When the agreement is submitted to Congress, we look forward to working with you to ensure its approval.

Thank you very much.